IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8999 of 2005
With
SPECIAL CIVIL APPLICATION No. 11746 of 2005
with
SPECIAL CIVIL APPLICATION No. 11757 of 2005
With
SPECIAL CIVIL APPLICATION No. 11680 of 2005
To
SPECIAL CIVIL APPLICATION No. 11681 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE KSHITIJ R.VYAS

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JANAKBHAI MAGANBHAI PATEL - Petitioner(s)

Versus

SPECIAL LAND ACQUISITION OFFICER & 2 - Respondent(s)

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Appearance :
MR AMIT V THAKKAR for Petitioner(s) : 1,
MR MANISH R BHATT for Respondent(s) : 2,
MR PR ABICHANDANI ld. AGP for Respondent(s) :1 & 3,
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CORAM : HONOURABLE MR.JUSTICE KSHITIJ R.VYAS
and
HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 17/10/2005

ORAL COMMON JUDGMENT

(Per : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA)

Time to carry out the amendment is extended up to 19.10.2005.

Rule. Mr. PR Abichandani ld. AGP waives service of rule on behalf of respondent no. 1 & 3. Mr. Manish R. Bhatt ld. Advocate waives service of rule on behalf of respondent no. 2.

This group of petitions is arising from the one line order passed by respondent no. 1 on 1.12.2004 rejecting the applications of the petitioners filed under the provisions of sec. 28A of the Land Acquisition Act. However, during the pendency of these petitions, another order dated 8.8.2005 has been passed, since in these petitions main grievance of the petitioners was that the said order did not specify any reason for rejection. Even by subsequent orders, applications of the petitioners have been rejected on the ground of limitation. According to the respondent no. 1, the applications made by the petitioners under sec. 28A of the Act, are made after expiry of period of limitation as provided in that section. By way of amendment to the petitions, subsequent order is also challenged.

Today, Mr. PR Abichandani ld. AGP has produced on record a chart containing details regarding the date of applications, date of receipt of certified copy, date of the award made by the civil court, etc. Mr. Amit V. Thakkar ld. Advocate for the petitioners submits that considering this chart, it is obvious that the applications filed by the petitioners are within the period of limitation as prescribed under the Act. However, Mr. Manish Bhatt ld. Advocate for respondent no. 2 – Krishak Bharti Co-Op. Ltd., has submitted that either the petitioners can plead that the applications under sec. 28A have been made without the aid of the certified copy of the award and thereby they will get period of three months from the date of the award of the civil court or the petitioners can state that their applications have been filed along with the certified copy of the award and thereby they will get the advantage of set-of of the time taken for preparation of the certified copy. However, in the present case, a third category has been carved out by the petitioners by not producing the certified copy along with the applications, and still the benefit as prescribed under the proviso of sec. 28A regarding adjustment of time taken for preparation of certified copy of the award is being

claimed, according to Mr. Bhatt.

Having heard the contentions raised before us and having perused the impugned order, it clearly appears that though respondent no. 1 has again rejected the applications by subsequent order, while rejecting the same, he has not assigned the reasons for the conclusion drawn by him. When these are the submissions raised before us, it will not be possible for us to decide the issue while exercising our writ jurisdiction. It will be appropriate for the authority to consider the issue of limitation keeping in view all the relevant factors placed before him and also the contentions that may be raised by all parties concerned. In view of the aforesaid, these matters are required to be remanded back to respondent no. 1.

In the result, the orders dated 1.12.2004 and 8.8.2005 are quashed and set aside. The matters are remanded back to respondent no. 1 for his reconsideration on all the issues including that of limitation. After hearing the parties and after considering the material that may be placed before him, he shall give decision in accordance with law. With this direction, the petitions are allowed to the aforesaid extent. The concerned authority is directed to decide the

applications as expeditiously as possible preferably within 6 months from the date of this order. Rule is made absolute to the aforesaid extent only. DS permitted.

(KSHITIJ R. VYAS, J.)

(AKSHAY H. MEHTA, J.)

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